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PATENT
Docket No. YR1-34

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: David S. Puente et al
SERIAL NUMBER: 09/924,036
FILING DATE: August 7, 2001
FOR: Streaming Media Publishing System and Method
GROUP ART UNIT: 2611
EXAMINER: Harun M. Yimam

**CERTIFICATE OF MAILING
UNDER 37 CFR 1.8**

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
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Sir:

Identification of Transmitted Papers

Appeal Brief in triplicate, Appeal Brief Transmittal Letter in triplicate, Credit Card Payment Form PTO-2038, return receipt postcard

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PATENT
YR1-34

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

In re Application of: DAVID S. PUENTE ET AL : Date: February 21, 2006
Serial No.: 09/924,036 : Group Art Unit: 2611
Filed: August 7, 2001 : Examiner: Harun M. Yimam
For: STREAMING MEDIA PUBLISHING :
SYSTEM AND METHOD :
:

APPEAL BRIEF TRANSMITTAL LETTER

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Enclosed is an Appeal Brief, in triplicate, for the above patent application.

Appellant petitions for an extension of time for month(s). If an additional extension of time is required, please consider this a petition therefor.

Fee:

Extension fee due with this request:

X Appellant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that appellant has inadvertently overlooked the need for a petition for extension of time.

The Appeal Brief Fee was paid in a prior appeal in which there was no decision on the merits by the Board of Appeals.

X The Appeal Brief Fee is enclosed herewith. Fee: \$500.00
Charge the Appeal Brief Fee to my Credit Card. Credit Card Payment Form
PTO-2038 is enclosed herewith.

The total fee due is \$500.00

X Address all correspondence to Joyce Kosinski, Karambelas & Associates, 655 Deep Valley Drive, Suite 303, Rolling Hills Estates, CA 90274.

This letter is submitted in triplicate.

Respectfully submitted,

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PATENT
YR1-34

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF APPEALS**

Appeal No. _____

In re Application of: DAVID S. PUENTE ET AL

Serial No.: 09/924,036

Filed: August 7, 2001

For: STREAMING MEDIA PUBLISHING SYSTEM AND METHOD

APPELLANTS' BRIEF ON APPEAL

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01 FC:1402 500.00 OP

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF APPEALS**

In re Application of: DAVID S. PUENTE ET AL : Date: February 21, 2006
Serial No.: 09/924,036 : Group Art Unit: 2611
Filed: August 7, 2001 : Examiner: Harun M. Yimam
For: STREAMING MEDIA PUBLISHING :
SYSTEM AND METHOD :
:

APPELLANTS' BRIEF ON APPEAL

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This appeal is taken from the decision of the Examiner in the Office Action dated November 16, 2005 finally rejecting Claims 1-5 of the above-identified patent application. This brief is submitted in accordance with the provisions of 37 C.F.R. §41.37.

REAL PARTY IN INTEREST

The real party in interest is Loral Cyberstar, Inc. which acquired rights to the present application by way of an assignment from the inventors.

RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences known to Appellants, Appellants' legal representative, or the assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

STATUS OF CLAIMS

Claims 1-5 are currently pending in this application. Claims 1-5 were finally rejected in the Office Action dated November 16, 2005. Appellants appeal from this final rejection.

STATUS OF AMENDMENTS

A communication dated January 17, 2006 responsive to the final rejection was filed with no amendments made therein.

SUMMARY OF CLAIMED SUBJECT MATTER

The present invention provides for a streaming media publishing system and method for use in delivering streaming media services to personal computers. The streaming media publishing system and method preferably delivers streaming media content by way of a broadband satellite-based communications network.

An exemplary system comprises a content processing center that includes a broadcast server that communicates by way of a satellite with a cache server to distribute the streaming media content to one or more client personal computers coupled to the cache server. A content provider or corporation delivers media content, graphics and related data to the content processing center in analog, digital and textual formats where it is processed to produce a streaming media presentation.

The streaming media presentation is stored on the broadcast server. The streaming media presentation is transmitted (pushed) to the cache server where it is stored and accessed by the client personal computers. The client launches the web browser to access a HTML web page containing one or more presentations. The displayed HTML web page includes a thumbnail graphic image representative of each presentation that may be viewed. Selecting a particular thumbnail links to the corresponding video stream and displays the presentation along with associated audio.

An exemplary streaming media publishing method comprises the following steps. Graphics and text associated with a streaming media presentation are selectively processed to create a dynamic hypertext markup language (HTML) page corresponding to the presentation. Video and audio are processed to extract metadata associated with the presentation. The video, audio and metadata are encoded in a predetermined video format. A dynamic ASP/HTML page is constructed and is converted into a static HTML page. The static HTML page is integrated with the encoded video, audio and metadata. The streaming media presentation comprising the integrated static HTML and encoded video, audio and metadata is transmitted or broadcast (preferably over a satellite link) to a remotely located server computer where it is stored. A personal computer coupled to the server computer is used to access and view the streaming media presentation using web browser software. The streaming media presentation may be searched using the encoded metadata.

By bypassing many terrestrial networks, the global satellite and fiber network implemented by the present invention provides end-to-end service delivery standards for streaming media services on a global basis. The typical rate at which streaming media is delivered over the Internet is about 100 to 150 kbps with a high-speed last mile connection to the desktop and with packet loss approaching 3% which results in unsatisfactory video

viewing. The present system and method delivers sustained data speeds from 100 kbps to 1.5 mbps on a global basis with less than 1% packet loss.

The subject matter defined in independent claim 1 involved in the appeal can be found in the specification on page 5, line 12 through page 6, line 5; and in Figure 1 wherein there is shown the system of the instant invention. The subject matter defined in independent claim 3 involved in the appeal can be found in the specification on page 6, lines 6-19; and in Figures 1-3 wherein there is shown the method of the instant invention.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burns U. S. Patent 5,991,306 in view of Lumley U. S. Patent 6,588,013.
2. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burns U. S. Patent 5,991,306 in view of Lumley U. S. Patent 6,588,013 as applied to claim 1, and further in view of Omoigui U. S. Publication 2005/0076378.
3. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burns U. S. Patent 5,991,306 in view of Nagai U. S. Patent 6,795,092.
4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burns U. S. Patent 5,991,306 in view of Nagai U. S. Patent 6,795,092 as applied to claim 3, and further in view of Omoigui U. S. Publication 2005/0076378.

ARGUMENT

Rejection under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent 5,991,306 to Burns in view of U. S. Patent 6,588,013 to Lumley

The Examiner has rejected claim 1 under 35 U.S.C. 103(a) as being unpatentable over Burns U. S. 5,991,306 in view of Lumley U. S. 6,588,013.

The Examiner states considering claim 1, Burns discloses a streaming media publishing system (figure 2) comprising: a content processing center (content server – 52 in figure 2) for processing the media content (col. 5, line 66 – col. 6, line 7 and col. 9, lines 35-48) to generate a streaming media presentation comprising integrated static HTML pages (since the content server multicasts HTML pages, it inherently generates the HTML pages (col. 6, lines 1-7) and encoded video, audio (the media content has to inherently be formatted/encoded for suitable transmission) and metadata (hyperlinks for hypermedia document to various data items, such as video and audio – col. 6, lines 1-7 and col. 9, lines 42-50); a satellite for transmitting the streaming media presentation (54 in figure 1 and col. 6, lines 22-25); a cache server (72 figure 2) for receiving and storing the transmitted streaming media presentation (col. 6, lines 56-65); client personal computers (58 and 60 in

figure 2) coupled to the cache server comprising browser software for accessing the streaming media presentation stored on the cache server and displaying the streaming media presentation (col. 6, lines 48-55).

The Examiner further submits that Burns further discloses that the processing center (52 in figure 6) serves content in the form of video, audio and text (col. 5, line 66 – col. 6, line 1). However, the Examiner acknowledges that Burns fails to specifically disclose a particular source for the media content.

The Examiner goes on to state in analogous art, Lumley discloses a source of media content (14 in figure 1 and col. 4, line 66 – col. 5, line 18) comprising video, audio and textual content (col. 5, lines 34-35) for distributing various promotional materials to multiple users (col. 5, lines 19-35).

The Examiner concludes that it would have been obvious to one of ordinary skill in the art to modify Burns' system to include a source of media content, as taught by Lumley, for the benefit of distributing various promotional materials to multiple users (col. 5, lines 19-35).

Appellants' Synopsis of the Burns '306 Reference

Appellants respectfully submit that in Figure 2 of Burns there is shown a public network system 50 which includes multiple content servers as represented by content server 52 which stores content over a network 54. The content server 52 serves content in the form of text, audio, video, graphic images and other multimedia data. Appellants respectfully submit this is also stated in col. 5, line 66 – col. 6, line 1, and further in col. 6, lines 1-7, where it is stated "In the Internet context, the content servers might represent Web sites which serve or multicast content in the form of hypermedia documents (e.g., Web page) which link text, images, sounds, and actions in a web of associations that permit a user to browse through related topics, regardless of the presented order of the topics."

Appellants respectfully submit at col. 9, lines 35-48 of Burns there is disclosed "At the scheduled time, a media loader 122 sends a request to the content server on the Internet and receives the content from that content server (step 156 in Fig. 5). The content is stored locally at the local service provider (step 158). More particularly, the data comprising the target resource is stored as a proxy file in the cache memory 124, and any continuous data content (e.g., audio or video data) is stored in the continuous media server 126. In the Web context, the content might be in the form of a Web page or other hypermedia document that has hyperlinks to various data items, such as audio and/or video clips. The hypermedia document itself is stored in the cache memory 124, while the audio and video clips referenced by the hyperlinks are stored in the CMS 126."

Appellants have recited the teachings of col. 6, lines 1-7 of Burns relating to "content servers might represent Web sites which serve or multicast content in the form of hypermedia documents (e.g., Web page) which link text, images, sounds, and actions in a web of associations that permit a user to browse through related topics..." Appellants respectfully submit that at col. 9, lines 42-50 there is disclosed "In the Web context, the content might be in the form of a Web page or other hypermedia document that has hyperlinks to various data items, such as audio and/or video clips. The hypermedia document itself is stored in the cache memory 124, while the audio and video clips referenced by the hyperlinks are stored in the CMS 126. The target specifications corresponding to the links in the cached hypermedia document are modified to reference the audio and video files in the CMS 126, as opposed to the files maintained at the Web site (step 160 in Figure 5)." Appellants respectfully submit that at col. 6, lines 22-25 it is stated "The network 54 might be implemented using various physical mediums, including wirebased technologies (e.g., cable, telephone lines, etc.) and wireless technologies (e.g., satellite, cellular, infrared, etc.)." In label 72, Figure 2, there is disclosed "The ISP 56 also has a cache server 72 and a continuous media server (CMS) 74. The cache server 72 is configured as a conventional database server having processing capabilities, including a CPU (not shown), and storage 78. As one example, the cache server 72 is implemented as a SQL (Structure Query Language) database. The cache server 72 caches Internet resources, such as those requested by subscriber computers 58, 60, that have been downloaded from the content provider 52 to allow localized serving of those resources." In labels 58 and 60 of Figure 2, as disclosed at col. 6, lines 48-55, there is recited "The subscriber personal computers (PCs) 58 and 60 are individually connected to the ISP 56 by permanent or sessional dial-up connections. Conventional telephone or cable lines and compatible modems are used to form the connections 66, 68. Examples of suitable technologies include HFC, ISDN, POTS, and ADSL. The ISP 56 has network terminal switching equipment 70 to accommodate the connections to the subscriber PCs 58, 60."

Appellants respectfully submit that in label 52 of Figure 6 there is recited, as is found in col. 5, line 66 - col. 6, line 1, "The content server 52 serves content in the form of text audio, video, graphic images, and other multimedia data."

Appellants respectfully acknowledge the Examiner's admission that Burns fails to specifically disclose a particular source for the media content.

Appellants' Synopsis of the Lumley '013 Reference

In Lumley at label 14 of Figure 1 and as recited in col. 4, line 66 – col. 5, line 18 there is recited "Main facility 12 provides promotional material and television program listings from promotional material data source 14 to television distribution facility 16 via communications link 18. There are preferably numerous television distribution facilities 16,

"although only one such facility is shown in Fig. 1 to avoid over-complicating the drawing. Link 18 is preferably a satellite link, but may be a telephone network link, a cable or fiber optic link, a microwave link, a combination of such links, or any other suitable satellite based or terrestrial wired or wireless communications link. If it is desired to transmit video signals over link 18 in addition to data signals, a relatively high bandwidth link such as a satellite link may generally be preferred to a relatively low bandwidth link such as a telephone line. Television distribution facility 16 may be any suitable television distribution facility (e.g., a cable system headend, a broadcast distribution facility, a satellite television distribution facility, or any other suitable distribution facility)." Further, Appellants submit that at col. 5, lines 34-35 there is recited "The promotional material may include any desired combination of text, graphics, audio, and video." Further, Appellants submit that at col. 5, lines 19-35 there is a broad-ranging discussion of the promotional material provided by main facility 12 which may be provided to television distribution facility 16 as a continuous data stream....The promotional material distributed within system 10 may include any suitable type of promotional material. It may include promotions of local, regional or national events. It may also include pay-per-view promotions and subscription information, premium channel (e.g., HBO or CNN) promotions or any suitable advertisement. The promotional material may include any desired combination of text, graphics, audio and video.

Patentable Distinctions Over Burns '306 Reference

Appellants respectfully submit that in addition to the admitted conspicuous absence of the Burns reference failing to specifically disclose a particular source for the media content, Burns does not teach a content processing center which is submitted by the Examiner to be content server 52 in Figure 2 as explained in col. 5, line 66 – col. 6, line 7 and col. 9, lines 35-48. Further, Appellants respectfully submit that Burns does not teach a content processing center coupled for receiving the media content from the source of the media content and for processing the received media content to generate a streaming media presentation comprising integrated static HTML pages and encoded video, audio and metadata as required by element 2 of claim 1. Appellants respectfully disagree with the Examiner's contention that since the content server multicasts HTML pages, it inherently generates the HTML pages as relied upon by the Examiner at col. 6, lines 1-7. Appellants respectfully submit that this recitation as stated at col. 6, line 1 is "In the Internet context, the content servers might represent Web sites which serve or multicast content in the form of hypermedia documents (e.g., Web page) which link text, images, sounds, and actions in a web of associations that permit a user to browse through related topics, regardless of the presented order of the topics." Appellants respectfully take the position that this does not teach, suggest or imply generating a streaming media presentation

comprising integrated static HTML pages and encoded video, audio and metadata as required *inter alia* in element 2 of claim 1.

Furthermore, Appellants respectfully submit that in Burns, as is seen in col. 11, line 50 et seq., “The network system 200 attacks the latency problem of streaming video and audio data by supplementing the primary Internet distribution network with a second network which is not reliant on the Internet/ISP connection.” The difference between the two systems is that network system 200 of Figure 6 has an additional secondary network 202 for distributing content from the content server 52 of the ISPs 56. In the illustrated implementation, the secondary network 202 is a broadcast satellite network. As seen in Figure 6 and accompanying disclosure at col. 11, line 49 et seq., the primary network is the Internet 54 which has a secondary network 202 recited to be a broadcast satellite network. “The content provider 52 has a transmitter 204 which sends signals to an orbiting satellite 206, which redirects the signals to an ISP-based receiver 208.” Appellants respectfully contend this does not teach, suggest or imply a satellite for transmitting the streaming media presentation as required by element 3 of claim 1.

Furthermore, Appellants respectfully submit that the cache server, as contended by the Examiner, label 72 in Figure 2 of Burns and the accompanying disclosure at col. 6, lines 56-65, does not teach, suggest or imply a cache server for receiving and storing the transmitted streaming media presentation as required by element 4 of claim 1. Appellants respectfully contend that in col. 6, lines 56-65, it is stated “The cache server 72 is configured as a conventional database server having processing capabilities, including a CPU (not shown), and storage 78....The cache server 72 caches Internet resources, such as those requested by subscriber computers 58, 60, that have been downloaded from the content provider 52 to allow localized serving of those resources.”

Furthermore, Appellants respectfully contend that client personal computers 58 in Burns and 60 in Figure 2 and the accompanying discussion at col. 6, lines 48-55 do not teach, suggest or imply one or more client personal computers coupled to the cache server that each comprise browser software for accessing the streaming media presentation stored on the cache server and displaying the streaming media presentation as required by element 5 of claim 1. Therein, Appellants respectfully contend there is taught “The subscriber personal computers (PCs) 58 and 60 are individually connected to the ISP 56 by permanent or sessional dial-up connections. Conventional telephone or cable lines and compatible modems are used to form the connections 66, 68. Examples of suitable technologies include HFC, ISDN, POTS, and ADSL. The ISP 56 has network terminal switching equipment 70 to accommodate the connections to the subscriber PCs 58, 60.”

Finally, Appellants respectfully submit that label 52 in Figure 6 and the accompanying discussion at col. 5, line 66 – col. 6, line 1 of Burns does not teach, suggest

or imply the processing center as set out in element 2 of claim 1 but merely discloses the content server 52 serves content in the form of text, audio, video, graphic images, and other multimedia data.

Patentable Distinctions Over Lumley '013 Reference

Appellants respectfully submit that in Lumley on label 14 in Figure 1 and the accompanying discussion at col. 4, line 66 – col. 5, line 18 there is disclosed “promotional material and television program listings from promotional material data source 14 to television distribution facility 16 via communications link 18...Link 18 is preferably a satellite link, but may be a telephone network link, a cable or fiber optic link, a microwave link, a combination of such links, or any other suitable satellite based or terrestrial wired or wireless communications link.” Appellants respectfully submit that this does not teach, suggest or imply a source of media content comprising video, audio and textual content as in element 1 of claim 1 which is received by content processing center as in element 2 of claim 1, transmitted by a satellite as in element 3 of claim 1, to a cache server as in element 4 of claim 1, and then accessed by one or more client personal computers as in element 5 of claim 1. Appellants respectfully submit that this deficiency is not remedied by the disclosure of col. 5, lines 34-35, nor at col. 5, lines 19-35 which appear to be directed to the promotional materials provided by main facility 12 which may be provided to television distribution facility 16 as a continuous data stream.

Appellants therefore respectfully disagree that it would have been obvious to one of ordinary skill in the art to modify Burns’ system to include a source of media content, as taught by Lumley, for the benefit of distributing various promotional materials to multiple users. Appellants further submit that Burns, directed to a network system which includes a content provider connected to local service providers via an interactive distribution network such as the Internet, wherein the Internet is definitely the primary network and a satellite is a secondary network 202 “for distributing content from the content server 52 to the ISPs 56”, is not properly combinable with Lumley, directed to a promotional video system which may include an interactive electronic television program guide which furthermore does not teach, suggest or imply either streaming or the use of a cache as required by claim 1 of the instant invention.

Rejection under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent 5,991,306 to Burns in view of U. S. Patent 6,588,013 to Lumley as applied to claim 1, and further in view of U. S. Publication 2005/0076378 to Omoigui

The Examiner has rejected claim 2 under 35 U.S.C. 103(a) as being unpatentable over Burns U. S. 5,991,306 in view of Lumley U. S. 6,588,013 as applied to claim 1 above, and further in view of Omoigui U. S. 2005/0076378.

The Examiner contends as for claim 2, Burns and Lumley disclose a streaming media publishing system but fail to disclose that the streaming media presentation is searchable using the metadata integrated with the video and audio.

The Examiner further contends that Omoigui is analogous art and discloses that the streaming media presentation at paragraph 19, lines 1-7 is searchable using the metadata (descriptive presentation information) integrated with the video and audio, citing paragraph 22, lines 1-7, for the benefit of searching for a particular media presentation, citing paragraph 22, lines 5-7.

The Examiner concludes that it would have been obvious to one of ordinary skill in the art to modify the combined system of Burns and Lumley to include searchable streaming media presentation using metadata, as taught by Omoigui, for the benefit of searching for a particular media presentation as seen in paragraph 22, lines 5-7.

Appellants respectfully contend that in Omoigui at paragraph 19, lines 1-7, paragraph 22, lines 1-7 and paragraph 22, lines 5-7 there is not taught, suggested or implied a searchable streaming media presentation using metadata integrated with video and audio as required by claim 2 of the instant invention.

Furthermore, Appellants respectfully submit that for the reasons recited above, claim 2 has been shown to be patentably distinguishable over Burns and Lumley, which reasons are hereby respectfully incorporated by reference. Appellants respectfully contend that Burns is not properly combinable with Lumley and, further, that Omoigui is not combinable with either of Burns or Lumley since it is directed to a network client server system where live presentations can be streamed from an encoder or other server to a client computer; is primarily directed to use in the Internet and not satellite; does not require a cache for receiving and storing the transmitted streaming media presentation as required by element 4 of claim 1; nor is it used in combination with the content processing center of element 2 of claim 1; and fails to meet the requirements of the source media content in element 1 of claim 1 and the client personal computers in element 5 of claim 1.

Appellants take the position that Burns is not properly combinable with Lumley because one of ordinary skill in the art would not be motivated to do so and there is no suggestion or implication in either reference that they be combined and, further, Omoigui would not provide a basis for one of ordinary skill in the art to combine it with either of Burns or Lumley for the reasons recited above.

Rejection under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent 5,991,306 to Burns in view of U. S. Patent 6,795,092 to Nagai

The Examiner has rejected claims 3 and 4 under 35 U.S.C. 103(a) as being unpatentable over Burns U. S. 5,991,306 in view of Nagai U. S. 6,795,092.

The Examiner states regarding claim 3, Burns discloses a streaming media publishing method (Figure 2) comprising the steps of: selectively processing graphics and text associated with a streaming media presentation to create a dynamic hypertext markup language (HTML) page (col. 5, line 66 – col. 6, line 7) corresponding thereto; processing video and audio (col. 5, line 66 – col. 6, line 1) to extract metadata associated with the presentation (hyperlinks for hypermedia document to various data items, such as video and audio – col. 6, lines 1-7 and col. 9, lines 42-50); encoding the video, audio, and metadata in a predetermined format (the media content has to inherently be formatted/encoded for suitable transmission); integrating static HTML page with encoded video, audio, and metadata (since the content server multicasts HTML pages: web pages, that links text, audio, and video, and the media content has to inherently be formatted/encoded for suitable transmission, the HTML is inherently integrated with the streaming media before multicasting – col. 5, line 66 – col. 6, line 7); transmitting the streaming media presentation comprising the integrated static HTML page and encoded video, audio, and metadata to a remotely located cache server where it is stored (col. 6, lines 22-25 and 56-65); accessing and viewing the streaming media presentation using web browser software disposed on a personal computer coupled to the cache server (col. 6, lines 1-7 and 48-65).

The Examiner contends that Burns fails to disclose converting the dynamic HTML page into a static HTML page.

The Examiner states in analogous art, Nagai discloses converting the dynamic HTML page into a static HTML page for the benefit of generating a static digest/summary of a multimedia from a plurality of media data (col. 6, lines 39-43 and col. 7, lines 50-52).

The Examiner concludes it would have been obvious to one of ordinary skill in the art to modify Burns' method to include converting the dynamic HTML page into a static HTML page, as taught by Nagai, for the benefit of generating a static digest/summary of a multimedia from a plurality of media data (col. 6, lines 39-43 and col. 7, lines 50-52).

Appellants respectfully submit that in Nagai, col. 6, lines 39-43, it is disclosed "In order to generate a static digest, the representative time is determined from the selected scenes, and the media data set to be produced at that time is obtained. In this embodiment, an HTML file is used as the digest, and audio data is not used for the digest." At col. 7, lines 50-52 there is disclosed "The multimedia data restructuring unit outputs data

"of the HTML format. It is therefore possible to obtain a static HTML contents from dynamic contents."

Appellants respectfully submit that these recitations relied upon by the Examiner neither teach, suggest nor imply converting the dynamic HTML page into a static HTML page as required by elements 2-6 of claim 3 which calls for processing video and audio to extract metadata associated with the presentation, encoding the video, audio and metadata in a predetermined video format, converting the dynamic HTML page into a static HTML page, integrating the static HTML page with the encoded video, audio and metadata, transmitting the streaming media presentation comprising the integrated static HTML page and encoded video, audio and metadata to a remotely located cache server where it is stored.

Furthermore, claims 3 and 4 have been shown to be patentably distinguishable over Burns for reasons recited above which are hereby respectfully incorporated by reference.

Appellants state the lack of proper foundation or motivation to combine Burns with Nagai since, absent the conversion of the dynamic HTML page into a static HTML page recitation in Nagai, there is no teaching, suggestion or implication of the other interrelated steps which encompass the converting of the dynamic to the static HTML page. Furthermore, Burns is not analogous to Nagai since it is directed to a network system which includes a content provider connected to a local service provider via an interactive distribution network such as the Internet, where Nagai is directed to a conventional partial data reproduction method proposed which can be applied to a document constituted of a single media data type but cannot be applied to a document constituted of plural types of media data including still image data, text image data and the like and reproduction control information for the media data.

Therefore, Appellants respectfully disagree that it would have been obvious to one of ordinary skill in the art to modify Burns' method to include converting the dynamic HTML page into a static HTML page, as taught by Nagai and contended by the Examiner, for the benefit of generating a static digest/summary of a multimedia from a plurality of media data, citing col. 6, lines 39-43 and col. 7, lines 50-52.

The Examiner states regarding claim 4, Burns and Nagai meet the claimed limitation. In particular, Burns discloses that streaming media presentation is transmitted over a satellite link (54 in Figure 1 and col. 6, lines 22-25).

Appellants respectfully submit that claim 4 has been shown to be patentably distinguishable over Burns for reasons recited above which include inter alia the use of a primary Internet network and secondary satellite network and label 54 of Figure 1 and accompanying discussion at col. 6, lines 22-25 do little to cure this deficiency.

Rejection under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent 5,991,306 to Burns in view of U. S. Patent 6,795,092 to Nagai as applied to claim 3, and further in view of U. S. Publication 2005/0076378 to Omoigui

The Examiner has rejected claim 5 under 35 U.S.C. 103(a) as being unpatentable over Burns U. S. 5,991,306 in view of Nagai U. S. 6,795,092 as applied to claim 3 above, and further in view of Omoigui U. S. 2005/0076378.

The Examiner states as for claim 5, Burns and Nagai disclose a streaming media publishing system but fail to disclose that the streaming media presentation is searchable using the metadata integrated with the video and audio.

The Examiner contends that in analogous art, Omoigui discloses that the streaming media presentation (paragraph 19, lines 1-7) is searchable using the metadata (descriptive presentation information) for the benefit of searching for a particular media presentation (paragraph 22, lines 5-7).

The Examiner concludes it would have been obvious to one of ordinary skill in the art to modify the combined method of Burns and Nagai to include searchable streaming media presentation using metadata, as taught by Omoigui, for the benefit of searching for a particular media presentation (paragraph 22, lines 5-7).

Appellants respectfully submit that claim 5 has been seen to be patentably distinguishable over Burns in view of Nagai as applied to claim 3 above and further in view of Omoigui for reasons recited above which are hereby respectfully incorporated by reference.

Appellants have respectfully submitted that these references, in addition to not being properly combinable to meet claim 5, there being no suggestion or implication in any of them to combine with each of the others or any motivation of one of ordinary skill in the art to do so, none of these references, alone or in any combination, recite the method as recited in claim 5 which is that as recited in claim 3, further comprising the step of searching the streaming media presentation using metadata contained within the presentation.

Appellants therefore respectfully disagree, for the reasons recited above with regard to the patentability of claim 5 over Burns, Nagai and Omoigui, that it would have been obvious to one of ordinary skill in the art to modify the combined method of Burns and Nagai to include searchable streaming media presentation using metadata as taught by Omoigui for the benefit of searching for a particular media presentation.

Appellants respectfully submit that in view of the above remarks all of the claims presently under prosecution have been shown to contain patentable subject matter and to be patentably distinguishable over the prior art cited by the Examiner, alone or in any combination.

Accordingly, Appellants respectfully request that the final rejection of the primary Examiner be reversed.

Respectfully submitted,



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CLAIMS APPENDIX

Claims 1-5 as presented below are currently pending in this application.

1. A streaming media publishing system comprising:
 - a source of media content comprising video, audio and textual content;
 - a content processing center coupled for receiving the media content from the source of media content, and for processing the received media content to generate a streaming media presentation comprising integrated static HTML pages and encoded video, audio and metadata;
 - a satellite for transmitting the streaming media presentation;
 - a cache server for receiving and storing the transmitted streaming media presentation;
 - one or more client personal computers coupled to the cache server that each comprise browser software for accessing the streaming media presentation stored on the cache server and displaying the streaming media presentation.
2. The system recited in Claim 1 wherein the streaming media presentation is searchable using the metadata integrated with the video and audio.
3. A streaming media publishing method comprising the steps of:
 - selectively processing graphics and text associated with a streaming media presentation to create a dynamic hypertext markup language (HTML) page corresponding thereto;
 - processing video and audio to extract metadata associated with the presentation;
 - encoding the video, audio and metadata in a predetermined video format;
 - converting the dynamic HTML page into a static HTML page;
 - integrating the static HTML page with the encoded video, audio and metadata;
 - transmitting the streaming media presentation comprising the integrated static HTML page and encoded video, audio and metadata to a remotely located cache server where it is stored;
 - accessing and viewing 68 the streaming media presentation using web browser software disposed on a personal computer coupled to the cache server.
4. The method recited in Claim 3 wherein the streaming media presentation is transmitted 66 over a satellite link.

5. The method recited in Claim 3 further comprising the step of searching the streaming media presentation using metadata contained within the presentation.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.